

Ground Rules For Regulatory Negotiations

I. Participation: This section outlines the role of the committee, responsibility for attendance, the role of the alternates, and provides procedures for the addition and the withdrawal of members once negotiations have begun.

- A. The negotiating committee will operate by consensus.
- B. Committee decisions will be made by the consensus of the committee members present at the time consensus is reached. Once consensus is reached it may only be revisited with the consensus of the committee.
- C. Each negotiating committee member will designate a primary and secondary alternate in his/her absence (by the second meeting). A member who designates an alternate has the responsibility to insure that the alternate is prepared for full participation in the negotiation. A member who designates alternates will provide the committee with the alternate's name, address, email address, and phone number by the second committee meeting.
- D. Negotiating committee members or alternates must commit to attendance at negotiating sessions. Only members or officially designated alternates will sit at the negotiating table.
- E. Additional alternates may be added to the committee by consensus.

II. Decision Making: This section contains the definition of consensus which will be utilized during the negotiation process, specifies what happens to issues upon which there is no consensus, and provides for the establishment of subcommittees and caucuses.

- A. For the purpose of this negotiation consensus is defined as, "A decision on an issue that each member supports. It may not be that member's preferred decision, but it is a decision each member accepts, and believes represents the best solution for the group."
- B. If a consensus is not reached, an issue may be set aside by the committee for further negotiation, referred to a subcommittee, or permanently tabled. If consensus is not reached on an issue prior to the conclusion of these negotiations the committee will make no recommendation on that issue.
- C. Subcommittees may be formed to address specific issues and make recommendations to the committee. The subcommittees will also operate by consensus. Subcommittees are not authorized to make decisions for the committee.

D. Subcommittee sessions and/or caucuses may be closed and may be scheduled at any time during or between committee meetings and proceedings. A subcommittee or caucus will consist of less than a majority (five or less) of the committee members.

E. Any member may call for a caucus at any time.

III. Meetings: This section outlines the conduct of meetings, minutes, video or tape recordings, the circumstances under which non-members address the committee, and how the committee receives written submissions.

A. Full negotiating committee meetings are open to the public. Caucus meetings are closed to the public unless opened by consensus of the members and mediators participating in the meeting.

B. Summary minutes of each negotiating committee meeting shall be kept by a neutral recorder. The minutes will be made available to the public after review and approval by the committee.

C. Cell phones and pagers must be left off or muted during session.

D. Non-members may address the negotiating committee in one of three ways.

- 1) During a specified time on the agenda set aside for public participation if the committee directs that the agenda provide for the time.
 - a) At designated meetings
 - b) At the beginning of the first day of a meeting with a total limit of 30 minutes set aside in 5 minute increments by appointments scheduled ahead of time with the recorder. If the 30 minutes are not taken up by appointments, opportunity will be given at the meeting for comments of 5-minute duration.
 - c) Each individual gets one opportunity to address the committee unless invited back by committee consensus.
- 2) Through a member of the committee, by providing advance notice to the committee members of the subject matter to be presented.
- 3) By written submission directed to the recorder which submissions will be forwarded to the committee with the agenda for the next meeting. Agendas will be sent at least 3 days prior to meetings.

E. Written or electronic submissions to the committee must be signed, distributed to the committee. Written and electronic submissions to the committee are public information.

IV. Safeguards: This section outlines protections for committee members with respect to statements, written proposals, and committee conduct with the media, with mediators, and with each other.

- A. All members will act in good faith in all aspects of these negotiations.
- B. All negotiating committee members are expected to extend their best efforts toward finding solutions to the issues presented in the negotiations.
- C. Members may address the media at their discretion; however, members should refrain from characterizing their views as those of the committee. The committee may issue press releases, hold press conferences or use other appropriate means, as determined by the committee to inform the public.
- D. Specific offers, positions, statements, or options offered during the negotiation, orally or in writing, will not be used by other parties for any purpose outside the negotiation or as evidence in any future litigation.
- E. The committee by this reference accepts the Mediator Guidelines.

**Federal Mediation and Conciliation Service
Facilitator/Mediator Guidelines**

The facilitator/mediator is not the agent of any party to the negotiation. The facilitator/mediator is a neutral third party whose responsibility is to facilitate resolution of the issues identified and agreed upon by the parties to the negotiation. The facilitator/mediator takes no position on the substance of any issue before the committee.

- 1. The facilitator/mediator has no enforcement authority.
- 2. The facilitator/mediator will make every attempt to keep the parties focused on the agreed upon issues and objectives.
- 3. The facilitator/mediator is responsible for ensuring the parties adhere to the agreed upon process and ground rules.
- 4. Facilitator/Mediator Confidentiality: Anything said to the facilitator/mediator in private conversation or shared in private caucuses remains confidential, unless otherwise authorized by the parties. Facilitator/mediators will not be called to testify, give deposition, or participate in any legal proceeding regarding their role or divulge any information obtained by the facilitator/mediator in the course of performing their responsibilities as a neutral, nor will any party to the negotiation, or their representatives request the facilitator/mediator notes or written working papers.
- 5. Facilitator/mediators may utilize a variety of techniques to assist the parties in the resolution of identified issues including but not limited to private caucus, brainstorming, consensus decision making and the offering of test options or suggestions.

6. Facilitator/mediator test options or suggestions: In the event the facilitator/mediator utilizes these techniques, the parties should not confuse this with the facilitator/mediator taking a substantive position on issues. Techniques are used by the facilitator/mediator for the sole purpose of encouraging the parties' resolution of the issues.